

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 09/426,442 Confirmation No.: 1897
Appellant(s): Sharyn Marie Garrity et al.
Filed: October 25, 1999
Art Unit: 2134
Examiner: Christopher J. Brown
Title: SYSTEMS AND METHODS FOR
SECURING EXTRANET TRANSACTIONS

Docket No.: 99-703RCE1
Customer No.: 25537

Mail Stop Appeal Brief-Patents
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REPLY BRIEF UNDER 37 CFR § 41.41

This Reply Brief is filed pursuant to 37 CFR § 41.41 and is filed in response to the Examiner's Answer of September 10, 2007, the Examiner's Answer being in response to a Revised Appeal Brief filed May 23, 2007. This Brief addresses a number of points arising from the Appeal Brief, as well as the Examiner's Answer to the same.

10. Response to Argument.

The Examiner's Answer responded to Appellants' arguments under subsections A-C of section 7 of the Revised Appeal Brief. Accordingly, Appellants address the Examiner's position under those same subsections below. Again, currently, pending Claims 1-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,367,009 to Davis et al., in view of U.S. Patent No. 5,948,064 to Bertram et al., alone or further in view of U.S. Patent No. 6,240,091 to Ginzboorg et al., or U.S. Patent No. 5,774,552 to Francine G. Grimmer.

A. Claims 1, 2 and 7-14 are Patentable

As explained in Appellants' Revised Appeal Brief, not only does the final Official Action fail to establish a proper motivation for combining Davis and Bertram, but that one skilled in the art would not have been motivated to modify Davis with the teachings of Bertram, as alleged.

(1) Official Action fails to Establish Proper Motivation to Combine Davis and Bertram

In section 10 of the Examiner's Answer, the Examiner suggests that under the Supreme Court's recent decision in *KSR Int'l. Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 82 USPQ2d (BNA) 1385 (2007), sufficient motivation to combine Davis and Bertram may be established by merely alleging that the references are directed to the same technology as one another, and are of an analogous art. Appellants respectfully submit, however, that nowhere did the Court in *KSR Int'l. Co.* state or otherwise hold that two references may be combined to disclose a claimed invention merely upon holding that those references are directed to the same technology as one another, and are of an analogous art.

Although the Court in *KSR Int'l. Co.* rejected a rigid application of the "teaching, suggestion or motivation" (TSM) test, the Court did state that obviousness often requires determining whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue, and that to facilitate review, this analysis should be made explicit.

See KSR Int'l. Co., 127 S.Ct. at 1740–41, 82 USPQ2d (BNA) at 1396. Even further, the Court noted that “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, 127 S.Ct. at 1740-41, 82 USPQ2d (BNA) at 1396, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d (BNA) 1329 (Fed. Cir. 2006) (emphasis added).

As clearly explained by the Supreme Court in *KSR Int'l. Co.*, then, any finding of obviousness should be based on an apparent reason to combine the prior art, and must be supported by more than mere conclusory statements. In the instant case, the Examiner attempts to support the alleged combination of Davis (access control list - ACL) and Bertram (user accounts) by merely asserting that one skilled in the art would have been led to the combination to realize an alleged increase in security and flexibility provided by user accounts over ACLs. However, the Examiner fails to cite any evidence to support the assertion that a user account provides a higher level of security and flexibility than an ACL. Further, nowhere does the Examiner support the aforementioned conclusion with any reasoning or rationale underpinning the conclusion, whether in the nature of the problem to be solved, any of the cited references, or knowledge of those skilled in the art. And in line with the Court in *KSR Int'l. Co.*, the obviousness rejection of the present claims cannot be sustained by merely concluding that one skilled in the art would have found it obvious to modify Davis per Bertram due to some unsupported, alleged difference between user accounts and ACLs, without some explicit reasoning with some rationale underpinning that conclusion.

Appellants therefore again respectfully submit that the Official Action has failed to establish a proper motivation for modifying Davis with the teachings of Bertram and, therefore, has failed to establish proper motivation to combine Davis and Bertram.

(2) *No Apparent Reason to Combine Davis and Bertram - Additional Reasons*

As further explained in Appellants' Revised Appeal Brief, Appellants respectfully maintain that it would not have been obvious to one skilled in the art to modify Davis with the teachings of Davis. In support of its position, Appellants noted that even if one could argue that a user account with access policies would be beneficial over a strict yes or no ACL, as alleged by the Examiner, nowhere does Davis teach or suggest that its ACL is of a "strict yes or no" type. In fact, other than describing comparison of the user's name to a list of authorized users, Davis does not teach or suggest any particular properties of the respective list. As will be appreciated by those skilled in the art, an ACL may specify a set of permissions (e.g., read, write, delete, etc.) for a particular user.

In response to the foregoing, in the Examiner's Answer, the Examiner cites to a passage (column 13, lines 35-42) whereby Davis discloses comparing a user's name to an ACL and, if the user's name is found, permitting a request from that user. Even considering this passage, however, Davis still does not teach or suggest any properties of its ACL that (in the context of the Davis system) support any apparent reason for substituting the access control list for the user accounts of Bertram. Again, contrary to the Examiner's suggestion that an ACL only permits "strict yes or no" access control, Appellants respectfully submit that an ACL may not only grant a particular user access to an object, but may also specify a set of permissions for the user with respect to that object. See SearchSoftwareQuality.com Definitions, *What is access control list* (last modified Jan. 13, 2006)

<http://searchsoftwarequality.techtarget.com/sDefinition/0,,sid92_gci213757,00.html> ("An access control list (ACL) is a table that tells a computer operating system which access rights each user has to a particular system object The most common privileges [for a user with respect to an object] include the ability to read a file (or all the files in a directory), to write to the file or files, and to execute the file (if it is an executable file, or program).").

As explained in Appellants' Revised Appeal Brief, ACLs such as those of Davis generally differ from user accounts such as those of Bertram in the entities to which they refer. In this regard, an ACL such as that of Davis is associated with *an object* such as a computer

file, and typically includes at least a list of users authorized to access the respective object. Consistent with the disclosure of Davis, an ACL is consulted to determine if the user is authorized to retrieve information of the ETS. In contrast, a user account such as that of Bertram is associated with a user, and typically includes a username, password, and other information pertaining to that particular user. Thus, consistent with the disclosure of Bertram, a user may establish a user account for authenticating and identifying oneself to a server domain. Nowhere, however, does Bertram teach or suggest a user account providing any benefit to access control for the requested information of Davis over that already provided by the associated ACL. That is, for accessing a particular piece of information, as disclosed by Davis, nowhere does Bertram teach or suggest a user account providing any benefit over the ACL already provided by Davis. One could argue the differences between ACLs and user accounts, but nothing in Davis, Bertram or information generally known to those skilled in the art teaches or suggests an apparent reason for replacing the ACL of Davis with the user accounts of Bertram.

Moreover, Appellants note that in at least two instances in the Examiner's Answer, the Examiner suggests that both ACLs and user accounts are utilized in authentication techniques. Appellants note, however, that in proffering this interpretation, the Examiner appears to be confusing the concepts of authentication and authorization. In this regard, it is well known to those skilled in the art that the concept of authentication relates to identifying and verifying the identity of a user. The concept of authorization, on the other hand, relates to determining a level of access a particular user (or even authenticated user) may have to controlled resources of a host. And although the user accounts of Bertram may include a username/password for authenticating a user, the ACL of Davis is not used for authentication. Rather, Davis performs authentication through the exchange of digital certificates, and performs authorization through its ACL.

For at least the above reasons, as well as those presented in Appellants' Revised Appeal Brief, Appellants respectfully submit that independent Claim 1, and by dependency Claims 2-7 is not taught or suggested by Davis in combination with Bertram. The other independent claims, namely Claims 8 and 13, include comparable recitations to independent Claim 1 and are

therefore patentably distinct (along with the claims that depend therefrom, i.e., Claims 9-12 and 14-17) from Davis and Bertram for at least the same reasons as described above in conjunction with independent Claim 1. The tertiary references likewise fail to cure the deficiencies of Davis and Bertram with the tertiary references only being cited by the Official Action in conjunction with features set forth in various dependent claims.

For each of the foregoing reasons, as well as those presented in Appellants' Revised Appeal Brief, Appellants submit that the rejection of Claims 1, 2 and 7-14 should be reversed.

B. Claims 4-6, 16 and 17 are Patentable

As indicated above, Claims 4-6, 16 and 17 stand rejected as being obvious over Davis in view of Bertram, and in further view of Ginzboorg. Appellants respectfully submit, however, that Ginzboorg does not cure the defects of Davis in view of Bertram. That is, even considering Ginzboorg, Appellants maintain that the final Official Action still fails to establish a proper motivation for combining Davis and Bertram, and that one skilled in the art would not have been motivated to modify Davis with the teachings of Bertram. Appellants therefore respectfully submit that independent Claims 1, 8 and 13, and by dependency Claims 1-7, 9-12 and 14-17, are not taught or suggested by Davis in combination with Bertram, and further in combination with Ginzboorg.

For each of the foregoing reasons, as well as those presented in Appellants' Revised Appeal Brief, Appellants submit that the rejection of Claims 4-6, 16 and 17 should be reversed.

C. Claims 3 and 15 are Patentable

As further indicated above, Claims 3 and 15 stand rejected as being obvious over Davis in view of Bertram, and in further view of Grimmer. Appellants respectfully submit, however, that Grimmer does not cure the defects of Davis in view of Bertram. That is, even considering Grimmer, Appellants maintain that the final Official Action still fails to establish a proper motivation for combining Davis and Bertram, and that one skilled in the art would not have been motivated to modify Davis with the teachings of Bertram. Appellants therefore respectfully submit that independent Claims 1, 8 and 13, and by dependency Claims 1-7, 9-12

and 14-17, are not taught or suggested by Davis in combination with Bertram, and further in combination with Grimmer.

For each of the foregoing reasons, as well as those presented in Appellants' Revised Appeal Brief, Appellants submit that the rejection of Claims 3 and 15 should be reversed.

CONCLUSION

For at least the foregoing reasons, as well as those presented in Appellants' Revised Appeal Brief, Appellants respectfully request that the rejections be reversed.

Respectfully submitted,



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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON NOVEMBER 8, 2007.